

REMARKS

Claims 1-4 and 6-8 are pending in the present application.

The Examiner has required election in the present application between:

Group I, claims 1-6 and 8, drawn to a host cell expressing a gene encoding a ligand responsive transcriptional regulatory factor, a first reporter gene operably linked to a ligand responsive transcriptional regulatory sequence, and a second reporter gene operably linked to promoter that is not activated by the same ligand responsive transcriptional regulatory factor, and a first method of using said host cell to detect agonists for said ligand responsive transcriptional regulatory factor; and

Group II, claims 5 and 7, drawn to a second method of using said host cell to detect antagonists for said ligand responsive transcriptional regulatory factor.

For the purpose of examination of the present application, Applicants elect Group I, claims 1-6 and 8. This election is made with traverse, as explained below.

Applicants acknowledge that the Examiner has tried to apply the Unity of Invention rules that govern division of the instant application. However, the Examiner has applied these rules incorrectly.

In particular, the Examiner takes a position that no common technical feature links claims 1-6 and 8 of Group I and claims 5 and 7 of Group II. The Examiner asserts that because the claims of Group I are directed to an invention in which an increase in some cellular response is measured, whereas in the claims of Group II, a decrease in a cellular response is measured, the groups of claims are not unitary.

The Examiner's position identifies a distinct technical feature between the groups of claims. However, it ignores the common technical features among the claims that the cellular response that is measured is generated by a reporter gene whose transcription is regulated by a ligand responsive transcription factor (claims 1, 6 and 7). The ligand responsive transcription factor may be an aryl hydrocarbon receptor (claims 2-4). The cells used in the claimed assays also share the feature that they express a second reporter gene under the control of a promoter that is not responsive to a ligand. ("a promoter making no change in transcriptional activity from a ligand contact with the ligand responsive transcriptional regulatory factor."

As all of the claims describe an invention possessing these technical features, they are all linked by a "common technical feature" sufficient to establish Unity of Invention. Accordingly,

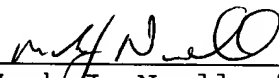
all of the pending claims should be examined in the instant application.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mark J. Nuell (Reg. No. 36,623) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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